

DRAFT

13 September 1977

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CIA RECORDS DESTRUCTION POLICY

Rescission: [] dated 7 September 1976

Reference: []

1. This notice informs CIA employees of the current requirements that must be met before Agency records may be destroyed. The requirements are outlined below, and procedures are presented in paragraph 2.

a. The United States Code, Title 44, Chapter 33, Disposal of Records, defines "records" as including "all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them." (44 U.S.C. 3301) ⁴

b. Federal records may not be destroyed without prior authorization by the Archivist of the United States. The Archivist authorizes destruction by signing Standard Form 115, Request for Records Disposition Authority, which identifies series of related records and specifies the time for their destruction. Within the Agency, CIA Form 139, Records Control Schedule, which includes additional detail, is used to implement the dispositions approved on SF 115.

c. Currently, copies of SF 115 and Form 139 are reviewed and cleared by the Senate Select Committee on Intelligence. Procedures are also being negotiated through the Legislative Counsel for the Select Committee to inspect CIA records prior to their destruction.

d. Other considerations are of equal importance in deciding whether to destroy CIA records. These considerations include legislation such as the Freedom of Information Act and the Privacy Act, litigation such as Federal antitrust suits and personal lawsuits, and matters under investigation by the Department of Justice or Congress. Although records subject to legal or investigative requirements are identified

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when a requirement arises, it is necessary to ensure that they are not inadvertently destroyed. Therefore, before destroying any Agency records, whether on paper, magnetic tape, film, or other recording media, it must be determined that there are no actual or impending legal or investigative requirements for the records.

2. The Agency Records Management Officer (Chief, Information Systems Analysis Staff, DDA), in coordination with other Agency officials, is responsible for ensuring that CIA records are properly maintained and destroyed in accordance with the above requirements. To ensure compliance, the following steps must be taken:

a. Before destroying any records, each employee must consult the component Records Management Officer (RMO) and the custodian of the records to verify that the records are scheduled for immediate destruction on an approved Form 139, Records Control Schedule. If the records are not scheduled for immediate destruction, they may not be destroyed unless the Agency RMO obtains approval to amend the records control schedule by submitting an SF 115, Request for Records Disposition Authority, to the Archivist of the United States.

b. Records relating to pending Freedom of Information Act or Privacy Act requests to the Agency are subject to additional retention periods established by the Archivist and included in the records control schedules. Normally, requested records are duplicated in their entirety at the time of a request, and the duplicate copies are maintained in accordance with the retention period for the related request. However, if such duplication is not practical, the records are instead flagged at the time of the request, using Form 4016, Information Request Flag, and must be segregated later from the record series at the time the record series is being processed for destruction. Alternatively, all records in process for destruction may be checked against an automated index of FOIA/PA requirements.

c. It also must be determined that records being processed for destruction are not related to actual or impending litigation or to matters under investigation by the Department of Justice or Congress. The initial determination will be made by the component RMO and the custodian based on their review of the records and on information provided by the General Counsel to the component RMO through the Agency and directorate RMO's. If the initial review raises any question as to actual or impending legal or investigative requirements for the records, authority to destroy them must be obtained by routing Form 141c, Request

for Authorization to Retain or Destroy Questionable Records, through the custodian and the component and directorate RMO's to the Records Administration Branch, ISAS. The Agency RMO will obtain the concurrence of the General Counsel prior to approving the actual destruction of the records. (If approval is denied, the Agency RMO must submit an SF-115 to the Archivist, requesting authorization for continued retention of the records.)

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to retain the records longer than originally set for.

d. Records meeting the above conditions still must not be destroyed if they have not been cleared for destruction by the Senate Select Committee on Intelligence. Such records may be deposited in the "destruction holding area" at the Agency Archives and Records Center pending Select Committee review.

3. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are excluded from the 44 U.S.C. 3301 definition of "records" and may be destroyed when no longer needed.³

4. Questions on implementing this policy should be directed to the component Records Management Officer.

See memo added 8/11/77

¹ "Records" include

² "Non-records" include

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Attachments:

1. Form 141c
2. Form 4016

DISTRIBUTION: ALL EMPLOYEES

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